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EXAMINER

ZURITA, JAMES H

ART UNIT PAPER NUMBER

3625

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/943,708

Applicant(s)

FRAZIER ET AL.

Examiner

James H. Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-24 and 26-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-24 and 26-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Prosecution History

On 31 August 2001, applicant filed the instant application. There are no claims to priority.

On 29 July 2003, the Examiner issued a first office action, rejecting claims 1-41, as clearly anticipated by Jenkins (US 6,480,713), Walker (US 6,374,240) or Treyz (6,587,835).

On 29 January 2004, applicant cancelled claims 2, 25 and amended claims 1, 3, 5, 24, 26, 28. This amendment was entered on 26 April 2004.

On 2 April 2004, the application became abandoned for failure to respond to the office action of 7/29/03.

On 26 April 2004, Applicant filed a petition to revive the application.

On 26 April 2004, the Office entered applicant's amendment of 01/29/04.

On 16 June 2004, the Office granted applicant's petition to revive.

On 14 July 2004, Applicant's amendment was forwarded to the Examiner.

On 20 September 2004, the Examiner issued a non-final rejection of claims 1, 3-24, 26-41 as unpatentable over Walker (US 6374240).

On 24 January 2005, Applicant presented arguments against the rejection. No claims were amended.

On 15 April 2004, the Examiner issued a Restriction Requirement.

On 12 May 2005 applicant responded to the requirement, with traverse. Applicant selected invention III, claims 23-24 and 26-41.

The present Office Action is a response to Applicant's last communication.

Election/Restrictions

Applicant's election with traverse of claims 23-24 and 26-41 in the reply filed on 12 May 2005 is acknowledged.

The traversal is found persuasive. The requirement is vacated.

Response to Amendment

The claims have not been amended since 29 January 2004. As noted above, the amendment was entered on 26 April 2004.

Claims 1, 3-24, 26-41 are pending and will be examined.

Response to Arguments

Applicant's arguments filed 19 January 2005 and 26 January 2004 have been fully considered but they are moot in view of new grounds for rejection.

Drawings

The following appear to be word processing errors. The objections are raised to clarify the record.

- The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5).

The reference number used in the specification does not match the reference number used in the drawing.

On page 7, line 23, step **535** should be changed to **540**.

On page 8, line 5, step **550** should be changed to **545**.

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- The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4).

Reference character “610” has been used to designate both **memory** and

memory controller. Page 8, lines 23-24, describes reference **610**:

one or more temporary data-storage components 610 (e.g., volatile and nonvolatile memory modules).

Functions of a memory controller appear on lines 29-30 of page 8, and it is not clear whether these items are different or not.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The objection to the drawings will not be held in abeyance.

Claim Objections

The following claims are objected to because of informalities:

Claims 16 and 17 refer to **threshold value**, Claims 3, 4, 26 and 27 refer to **threshold amount**. The terms will be interpreted as synonyms.

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Claims 1, 4, 24, 27 refer to ***previous interactions***. Claim 23 refers to ***previous transactions***. They will be interpreted as synonyms.

Claims 15-17 refer to ***customer's wait-time***. Claim 36 refers to ***customer's wait time***. Claims 5-8 and 28-31 refer to ***amount of time that the customer waits***. Claims 8, 31 refer to ***customer's waiting-time***. The terms will be interpreted as synonyms.

Claim 17 refers to ***measure wait-time***, should be changed to measured wait-time, to ***measured wait-time***, as in claims 16 and 17.

Claim 41 refers to ***point of exit***. Claim 22 refers to ***point-of-exit***. The terms will be interpreted as synonyms.

Claim 19, 38 refer to "...when the customer reaches a point at which customers place orders with the service establishment." Claims 20, 21, 39, 40 refer to "...where the customer reaches a service window or service counter." These terms will be interpreted as referring to the same point.

In claim 30, the phrase "...from the device the customer reaches a first checkpoint;" should be changed to "...from the device ***when*** the customer reaches a first checkpoint;"

Claims 1, 24 and 28 refer to "quality-of-service received by the customer.." Claims 1, 3, 24 and 26 refer to "...quality-of-service..."

Appropriate correction, if any, is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 17, "...exceptional..." is a relative term. What may be considered exceptional in one establishment may be considered ordinary in another.

Claim 1 refers to inadequate, which is a relative term. See rejection of claim 17.

Claim 16 refers to long wait. See rejection of claim 1.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 3 and 26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 3 and 26 refer to measuring "...the amount of time taken **to serve** the customer..." Other claims refer to measuring "...the amount of time that the **customer waits in a service lane...**"

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3-24, 26-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickson et al. (US 6,574,603).

As per claim 1, Dickson discloses a computer-automated method for use by a service establishment in providing services to a customer, comprising:

acquiring a signal from a device carried by the customer during a visit to the service establishment. See, for example, Figs. 2A-2C, Col. 7, lines 43-56.

deriving from the signal information that allows identification of the customer. See, for example, at least Col. 3, lines 48-67, Col. 15, lines 6-45. see also Fig. 10, item 502. see also references to customer account information, as in Col. 3, lines 1-31.

using this information to identify the customer and to retrieve archived information about previous interactions with the customer. See, for example, references to information stored at central locations and correlated account information, as in Col. 15, lines 46-67.

analyzing the archived information to identify a product or service of interest to the customer; see, for example, at least references to paying for ordering and fueling operations using stored account information, as in Col. 15, lines 6-45.

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assessing the quality-of-service received by the customer during the visit.

See also references to timeliness of food preparation, as in Col. 17, lines 18-37, and Col. 18, lines 62-Col. 19, line 14.

deciding that the quality-of-service was inadequate. See, for example, references to timeliness and delays, as in Col. 18, lines 63-Col. 19, line 13.

Dickson does not specifically disclose offering an identified product or service to a customer at a discount before the customer leaves the service establishment.

Official Notice is taken that it is well known for businesses to dispense coupons or other incentives to compensate customers for delays in services such as food preparation.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Dickson to disclose offering an identified product or service to a customer at a discount before the customer leaves the service establishment.

One of ordinary skill in the art at the time the invention was made would have been motivated to extend Dickson to disclose offering an identified product or service to a customer at a discount before the customer leaves the service establishment for the obvious reason that a customer may become dissatisfied with delays and may decide to not patronize the service establishment.

As per claim 3, Dickson discloses evaluating quality-of-service, such as timeliness, includes measuring the amount of time taken to serve the customer and comparing the measured amount to a threshold amount. See, for example,

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references to timeliness of food preparation, as in Col. 17, lines 18-37, and Col. 18, lines 62-Col. 19, line 14.

As per claim 4, Dickson **does not** specifically disclose using archived information about previous interactions with the customer in calculating the threshold amount.

Official Notice is taken that it is old and well known to analyze historical information, from prior interactions, for example, to develop customer profiles and enable service establishments to target advertising and merchandising accordingly.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Dickson to disclose using archived information about previous interactions with the customer in calculating the threshold amount.

One of ordinary skill in the art at the time the invention was made would have been motivated to extend Dickson to disclose using archived information about previous interactions with the customer in calculating the threshold amount for the obvious reason that a service establishment may be able to tailor advertising and merchandising accordingly.

As per claim 5, Dickson discloses measuring the amount of time that a customer waits in a service lane provided by the service establishment. See, for example, references to timeliness, as in claim 3. See also references to delays, as in Col. 18, lines 63-Col. 19, line 13. See also service establishments such as quick-serve restaurants and fueling, as in Col. 1, line 65-Col. 2, line 25.

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As per claim 6, Dickson discloses measuring a customer's waiting time:

initiating a time-monitoring sequence upon receiving the signal. See, for example, at least Col. 17, lines 18-37, Col. 22, lines 12-28, which discloses determining time periods, timely processing of orders.

receiving another signal from the device when the customer reaches a second checkpoint, see, for example, position interrogator 62.

As per claim 7, Dickson discloses that measuring the amount of time that the customer waits in the service lane includes:

acquiring a signal from the device when customer reaches a first checkpoint. see, for example, references to position interrogators, as in Fig. 1, item 60.

acquiring another signal from the device when the customer reaches a second checkpoint. see, for example, position interrogator 62.

As per claim 8, Dickson discloses measuring the amount of time that the customer waits in the service lane includes measuring the customer's waiting time in a drive-thru service lane provided by the service establishment. See, for example, references to timeliness and delays, as in Col. 22, lines 12-28, Col. 14, line 65-Col. 15, line 5.

As per claim 9, Dickson discloses acquiring a signal from a device carried by the customer includes acquiring a signal from a transponder carried on the customer's automobile. See, for example, Fig. 1A-1C.

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As per claim 10, Dickson discloses that retrieving archived information includes requesting the archived information from a database system. See at least references to retrieving stored account information, as in Col. 3, lines 1-31.

As per claim 11, Dickson **does not** specifically disclose that retrieving archived information includes retrieving information collected by the service establishment during one or more previous visits by the customer

Official Notice is taken that it is old and well known to collect information and use the information to analyze purchasing habits of customers to present special offers.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Dickson to disclose retrieving archived information includes retrieving information collected by the service establishment during one or more previous visits by the customer.

One of ordinary skill in the art at the time the invention was made would have been motivated to extend Dickson to disclose retrieving archived information includes retrieving information collected by the service establishment during one or more previous visits by the customer to present targeted advertising and merchandising to increase revenue.

As per claim 12, Dickson discloses retrieving information about the customer collected and shared by more than one service establishment. See, for example, references to central control system, Fig. 9, which shows receipt from various service establishments.

As per claim 13, Dickson discloses that acquiring a signal from a device carried by the customer includes acquiring a signal from a transponder of a type that is meant to be carried in the customer's pocket. See, for example, at least Fig. 2A-2C.

As per claim 14, Dickson discloses the method of claim 1, where offering the product or service to the customer includes using an electronic terminal at the service establishment to generate a printed coupon. See references to printing receipts, as in Col. 8, lines 9-21.

As per claim 15, Dickson discloses method for use by a service establishment in measuring a customer's wait-time in a service lane, comprising;

receiving a signal from a device carried by the customer when the customer reaches a first checkpoint; see, for example, references to position interrogators, as in Fig. 1, item 60.

initiating a time-monitoring sequence upon receiving the signal. See, for example, at least Col. 17, lines 18-37, Col. 22, lines 12-28, which discloses determining time periods, timely processing of orders.

receiving another signal from the device when the customer reaches a second checkpoint, see, for example, position interrogator 62.

completing the time-monitoring sequence upon receiving that signal. See, for example, at least Fig. 11C, end.

As per claim 16, Dickson discloses comparing the measured wait-time to a threshold value. Time delays as disclosed by Dickson inherently involve comparing time values and determining that one is excessive. As per claim 16,

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Dickson **does not** disclose that if the measured wait-time exceeds the threshold value, rewarding the customer with compensation for enduring a long wait. See rejection of claim 1, above.

As per claim 17, Dickson discloses comparing the measured wait-time to a threshold value. As noted, time delays as disclosed by Dickson inherently involve comparing time values and determining that one is excessive. As per claim 17, Dickson does not specifically disclose that if the threshold value exceeds the measure wait-time, rewarding an employee of the service establishment for providing exceptional service.

Official Notice is taken that it is old and well known to reward employees for providing exceptional services to customers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Dickson to disclose that if the threshold value exceeds the measure wait-time, rewarding an employee of the service establishment for providing exceptional service.

One of ordinary skill in the art at the time the invention was made would have been motivated to extend Dickson to disclose that if the threshold value exceeds the measure wait-time, rewarding an employee of the service establishment for providing exceptional service for the obvious reason that such rewards may increase employee morale and help the employee become more productive.

As per claim 18, Dickson discloses receiving the signal at the first checkpoint includes receiving the signal when the customer reaches a point-of-

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entry to the service lane. See, for example, Fig. 1 and related text, concerning measuring points.

As per claim 19, Dickson discloses receiving the signal at the first checkpoint includes receiving the signal when the customer reaches a point at which customers place orders with the service establishment. See, for example, Fig. 1 and related text, concerning measuring points.

As per claim 20, Dickson discloses the method of claim 15 where receiving the signal at the first checkpoint includes receiving the signal when the customer reaches a service window or service counter. See Fig. 1 and related text.

As per claim 21, Dickson discloses receiving the signal when the customer reaches a service window or service counter. See Fig. 1 and related text.

As per claim 22, Dickson discloses the method of claim 15, where receiving the signal at the second checkpoint includes **receiving** the signal when the customer reaches a point-of-exit from the service lane. See Fig. 1.

Claim 23 is rejected on the same grounds as claim 1. see also Figs. 6, 7 and related text concerning network layout.

Claim 24 is rejected on the same grounds as claim 1.

Claim 26 is rejected on the same grounds as claim 3.

Claim 27 is rejected on the same grounds as claim 4.

Claim 28 is rejected on the same grounds as claim 5.

Claim 29 is rejected on the same grounds as claim 6.

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Claim 30 is rejected on the same grounds as claim 7.

Claim 31 is rejected on the same grounds as claim 8.

Claim 32 is rejected on the same grounds as claim 9.

Claim 33 is rejected on the same grounds as claim 10.

Claim 34 is rejected on the same grounds as claim 11.

Claim 35 is rejected on the same grounds as claim 12.

Claim 36 is rejected on the same grounds as claim 15.

Claim 37 is rejected on the same grounds as claim 18.

Claim 38 is rejected on the same grounds as claim 19.

Claim 39 is rejected on the same grounds as claim 20.

Claim 40 is rejected on the same grounds as claim 21.

Claim 41 is rejected on the same grounds as claim 22.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Zurita
Patent Examiner
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6 February 2006.

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